INJUNCTION SUIT TO RAPID TRANSI

Supreme Court Decides Company May Increase Capital Stock Up To \$1,600,000

HOLDS VALUE OF PROPERTY IN EXCESS OF LIMITATION

Action Instigated By Governor Fails When Judge Stuart Is **Sustained Above**

The Territory has lost its suit to en-join the Honofulu Rapid Transit and Land Company from increasing its capitalization, this being an action for an injunction which was instituted by the attorney general of the Territory at the instigntion of Governor Pinkham.

In this case, yesterday morning the supreme court handed down a decision affirming the decree made by Circuit Judge Stuart, who found for the de-fendant corporation in the lower court.

The case was strenuously contested in the lower and higher courts, the Ter General Stainback, Deputy Attorney General Stainback, Deputy Attorney General Heen and Deputy City Attorney Carden, while the company was represented by Frear, Prosser, Anderson & Marx, and Castle & Withington.

The opinion of the court was written by Chief Justice Robertson and concurred in by Associate Justices Watson and Quarles, who wrote short separate opinions on the subject. Justice Robertson's opinion covers seventeen typewritten pages, in addition to the syllabus, which runs two pages. The concurring opinions cover three and two

the company are well set out in the stock." opinion of the court.

Adverse Contentions In Case "The Territory, in a suit for an in-junction to restrain the Honolulu Rapid Transit and Land Company from earrying out an alleged plan to increase its enpital stack," says Chief Justice Rob-ertson, "averred that it is provided by the charter and franchise of the company that it shall not be lawful to increase the capital stock of the company in excess of the sum of \$200,000 unless the proposed increase shall, when taken with the original capital stock (\$200,-000), represent only the actual cost of the property of the railway (company) and not over twenty-five per cent of such cost in addition thereto; that the amount of its capital stock now outstanding is of the par value of \$1,207,of the property of the railway and twenty five per cent of such cost in addition thereto.

"By an amendment to the bill, however, it was averred that neither the actual cost nor the actual value of the property exceeds the sum of \$966,000. sum of \$966,000 plus twenty-five per cent amounts to \$1,207,500, the present outstanding capital of the com-

Only One Issue Raised The bill further averred that the company plans and intends to and will, unless restrained, further increase its capital stock to the sum of \$1,600,000 which would far exceed the actual cost of its property and twenty-five per cent of said cost in addition thereto.

"The company, is its answer, denied that the amount of its present capital stock exceeds the actual cost of its property and twenty-five per cent in addition thereto, and averred that the actual coat of its property exceeds the sum of \$2,171,841.51. It was also averred in the answer that though neither the directors nor the stockhold ers of the company have taken any action looking to the increase of the capital stock, the company has a just and legal right to increuse the same to the sum of \$1,600,000, and that it may do so at any time unless restrained by order of court.

"Aside from the point whether the company planned and intended, unless restrained, to increase its capital to \$1,000,000 or merely claimed the right to do so at any time, the only issue raised by the pleadings was to the amount of the capital stock which the company is authorized to issue based upon actual cost of its property. Territory Made Admissions

At the hearing, however, the complainant conceded that the items aggregating the sum of \$2,171,976.11. which the company submitted as capital expenditures represented the original cost of the property, items to the amount of \$1,603,056.68 were correctly stated. Nevertheless a great mass of testimony was offered and admitted as to the actual present value of the com-

pany's property.
"The complainant advanced the contention that the company could issue stock only upon the value of its plant after deducting depreciation. In other words, the sileged proposed increase of stock could not legally be made unless

it represented actual existing value. The circuit judge, in his decision, after referring to some of the testimony as to the value of the property, and the stipulation of the complainant as to its actual cost, but without making any express findings as to the actual value or the exact cost of the property, held that the right of the company to increase its capital stock turned upon the actual cost and net upon its present value; that by its franchise and charter the company is authorized to issue stock to the actual cost of its proprty and twenty-five per cent in addition thereto; and that under any view that may be taken of the evidence (as to either cost or value) the company has the right to issue steek to the amount of \$1,600,600.

Stuart Dismissed Bill

RUSSIANS DEFEAT TURKS IN ARMENIA

(Concluded from Page 1) In Armenia the Russians under the command of the Grand Duke Nicholas are advancing steadily toward the fortified stronghold of the Turkish empire, Erzingan, as well as at the Per sian front, where they have again taken the initiative from the Turks. Constantinople announced last night that Turkish envalry has met and defeated British envalry thirty miles from the Suez canal, and that they are pursuing the British in the direction

of the waterway. Rome issued a statement last night in which the Italian success in the Astico and Aviso regions was reported.

BRITISH CALL ANOTHER TREMENDOUS WAR LOAN

(Associated Press by Federal Wireless.) LONDON, July 24.—Premier Asquith oday in parliament asked for a vote upon a war credit of £450,000,000. The request is for the largest single sum asked during the war. It brings the total war credits to £2,832,000,000.

tered, and from that decree the Terri-

tory has appealed."

Following this the supreme court opinion goes deeply and extensively into the questions raised in the suit. To-wards the end of the opinion the chief justice says:

"The Honolulu Rapid Transit and Land Company was incorporated for the purpose of exercising the franchise granted by Act 69 of the Session Laws of 1898, and possesses all the powers conferred by that act. Section 37 authorized the issuance of capital stock equal to the amount of the actual cost of the property of the company and not over twenty five per cent of such cost in addition thereto.

"The menning of the term 'actual cost' having been ascertained there is no further doubt as to the meaning of the provision. The intent is plain and there is no room for construction. The question as to the present value of the Pages, respectively. | company's property does not affect the The contentions of the Territory and company's right to increase its capital

Value Held At Near \$2,000,000

In closing his lengthy opinion the chief justice says: "As to the matter of the cost of the

company's property we find that, after leaving out of consideration certain disputed items as to which there may perhaps be some doubt, there should be added to the sum of \$1,603,056.68, ad-mitted by the complainant to have been actually and properly expended, the items of \$255,549.94, purchase of Hawaiian Tramways Company, and \$79,024.43, Pearl Harbor Traction, making a total of \$1,937,631.05.

''And we hold that the actual cost of

the property of the company was not less than that sum, except that there should be deducted the amount of excess profits, if any, invested in property which would otherwise have been payable to the Territory under section 17 of the act as herein-before stated.

"This conclusion does not change the ultimate result arrived at by the cir-cuit judge in dismissing the bill. The decree appealed from will therefore be affirmed.

"There were other and subordinate

Judge Watson Concurs In concluding his concurring opinion Associte Justice Watson says:

"In my opinion, under the stipula-tion entered into by the parties as to the cost of the property of the company, and under all the evidence in the case, the decree of the lower court should be affirmed."

Associate Justice Quarle's concurring opinion is as follows:

"I concur in the conclusion that the decree denying the injunction sought to be affirmed on the grounds that the proven facts show that the defendant's corporation's property execuls in cost the amount to which it proposes to inerease its capital stock in the aggre-

"Many questions entirely without issues made by the plendings have not been discussed in the briefs and oral arguments and to some extent in the principal opinion.

"The issues made by the pleadings raise only one question, i. e., whether wirele under the facts the defendant has the laws. power under the franchise act and its articles of incorporation under which it operates, and under the general in er Necker, interned here, for the safe corporation laws of the Territory, to passage of the Deutschland and her increase its aggregate capital stock to crew.

\$1,600,000. Associate Quarles' Kokua

"A written stipulation was filed wherein it appears by agreement of both parties to this suit that the cost of the defendant's properties exceeds the sum named. The injunction sought was demanded upon the sole ground that the proposed issue of stock would in crease the capital stock of the defend ant to an amount in excess of the cost of its properties in violation of section 37 of the said franchise act, and on this issue the evidence and admitted facts are against the contention of the Territory.

"To my mind the provisions of sections 17 and 37 of the franchise act which sections are quoted in the principal opinion, are plain and free from ambiguity and call for no construction by intrinsic nid or otherwise. The phrase in this section 37 'increase it-capital stock' means just what those words import in their usual and ordinary signification and said section does not authorize the defendant to water its stock or to issue stock dividends except in the manner author ized by section 3299 R. L. The words right' and ' power' mean different things. It is only a question of power RICE TO SUCCEED ISENBERG that is involved here. The right of the defendant to issue some of the stock heretofore issued by it and to issue further stock, and the disposition of point W. H. Rice as Kauni member such stock as well as the amount of of the promotion commistee, in place excess income hestofore earned by the of D. P. R. Isenberg of Kauni, resigned. defendant, to which the Teritory is en | Messrs. Aiken and Vienza, members of titled, are matters to be settled in some the committee for Mani and Hawaii, re-

Olaa Leads With 1915 Shares President Isenberg of Former and Ewa Is In Demand

Rusiness was brisk on the stock ex-

The leader was Olan, 1915 shares old up half a point, then dropped \$16 per share.

The rise in Mineral Products was the feature of the curb market, 6200 shares selling at 99, and 1100 Moun-tain King at 85. Bid and asked prices quoted yesterday were, Honolulu Oil, bid, \$3, Culif. Haw'n 8 cents, and Tip perary 8 cents, Engels Copper 2.60 2.70; Mineral Products, 99c-\$1.00; Mountain King 85-877 1/9.

Fourteen Thousand Dollars To Be Paid For His Arrest and Conviction

(Associated Press by Federal Wireless.) SAN FRANCISCO, July 25.-Four een theusand dollars in rewards has the infernal machine in the midst of

The different individual rewards are: Mayor Rolph, \$4000; chamber of commerce, \$5000; supervisors, \$1000; State of California, \$1000; Alameda county, \$1000; W. R. Kinney, \$1000; B. F. Lambern, brother of one of the vie

This is the largest reward ever of fered in the State for any criminal or set of criminals, following any single erime, police authorities said last night. The police department has created a separate bureau to deal with the case. Letters which the police believe will prove clues to the identity of the man or men responsible for the bomb outrage are in the possession of the au-

thorities. The police have two letters they be-The police have two letters they be fleve are significant. One of them was sent to Police Commissioner James Woods, manager of the St. Francis Hotel, referring to his interest in the parade; the second was sent to a St. Francis waiter, urging him to poison These, it is believed. Mr. Woods' soup. will furnish a lead on which the de tectives may work.

District Attorney Fickert said vesquestions discussed in the briefs and terday that the bomb explosion of Satargument which we deem it unneces- urday was part of a nation-wide movein fostering preparedness. He expects men responsible for the explosion here.

SUBMARINE'S SAFTY

(Associated Press by Federal Wireless) BALTIMORE, July 25,-Paul Hilicen member of the American agency for the North German Lloyd Line, said yesterday that the German submarine Deutschland will start on her return to Germany "just as soon as we can get

The United States government officials have scaled up the Deutschland's wireless to comply with the neutrality

day on board the German freight steam

The submarine has partially sub merged,

CONGRESSMAN WANTS TO ORDER GUARDSMEN HOME

(Associated Press by Federal Wireless.) WASHINGTON, July 24.-During debate on the army bill today, Sentor Charles E. Townsend, Republican, Michigan, declared that the nation guardsmen have been sent to the Mexican border under false pretense and ought to be sent nome. Sentimen against further reductions in the items of the army bill appeared today.

ROBBERS LOOT TRAIN ON CHINESE RAILROAD

(Special to Liberty News.) SHANGHAI, July 24.-Ten robbers held up a train on the Ninyan and Can held up a train on the Ninyan and Can ton railrond Sunday morning, and 130 of the court, in addition to doing Japa ----

ON PROMOTION COMMITTEE

Governor Pinkham probably will apother suit or suits and are not involved epectively, probably will be reappoint 'A decree dismissing the bill was en- in the issued now before this court.' ed.

LIHUE MAY BUY

Company Will Neither Confirm Nor Deny Report

Negotiations are under way where change yesterday, 3338 shares changing by Col. Z. S. Spalding, controller of the Makee Sugar Company of Kauni, may sell his interests to the Libus willing without change at 19.75. Oahu Plantation Company. None of the parties to the transaction were willing back a quarter. Ewn was in demand at to discuss it yesterday, or even to ad ne quarter advance and Wainlua sold mit the truth of fairly well-substan without change. Pioneer sold off 75 stated rumors that the deal was being cents. Brewery, McBryde, H. C. & S. discussed, but the fact of the negotiao, and Onomen sold without change, tions for a purchase of the Makee San Carlos sold up to its old level, company by the other company were matter of common report .. "Wall

> vals in a good many land and home steading controversies, as well as wa ter rights disputes, and their amalgamation would put an end not only to litigation already pending, but to prospects of more litigation, over proposiions of this sort. It is said that Colonel Spalding is willing to sei; out his interests, and that the only question whether a price can be agreed upon. Han Isenberg, president of Libue Plantation Company, is in Honolulu, but he declined to discuss the matter last night. Asked for details regardirg the reported transaction he said he could not discuss it, and when ask ed whether he could at least confirm or deny the report that the deal was

The two plantations have been ri

on, he responded with a very polite The deal is one which . - carried through, would put an end to bitter commercial rivalry in Kaust. It is understood that the parties interested have been discussing it more or less even since the visit made by Governbeen offered for the arrest and convic- or Pinkham to Kauni some months tion of the man or men who placed ago, when he tried to straighten out some of the homestend and water the crowd watching the preparedness rights controversies in the menud. The parade last Saturday afternoon, and killed six and injured furly three per to a fight over railroad rights of way. te a fight over railroad rights of way. Earlier negotiations looking to a

union of these plantations were held years ago, but they have always been declared off before they reached a definite stage. They have now reached the stage of discussion in directors' meetings, and it is understood that it merely a matter of terms.

The Makee Sugar Company and Libue Plantation Company are both close corporations. Neither of them is hsted on the stock exchange, and in neither is their any stock dealing. Makee is assessed at \$1,254,790, but is believed to be held at much higher figure than that. A sale price of as high as \$2,000,000 is talked of among

An intensive advertising campaign with the aid of the railroads of the less disposition."
"He shall be a person who is not directed against those interested United States, to bring Hawaii still in fostering preparedness. He expects federal cooperation to run down the mainland, is being planned by A.

PERMITS TO DRIVE MAKEE INTERESTS AUTOS ARE ISSUED FOR REVENUE ONLY

Regulations Enacted By Supervisors Are Almost Totally Disregarded by Police

ABOUT ONLY ESSENTIAL THREE DOLLARS AS FEE

Result Is Drunks, Near-Blind and Mentally Unfit Hurtle Machines Through Honolulu Streets

driving is a menace to the public, as a few visits at the morning session in the police court will show. Apparently all that is necessary now to secure license is to fill out a statement, pay three dollars, and the license is forth coming.

No attention whatever is paid to whether the applicant is physically, mentally or morally fit to drive a high power road vehicle, such as the modern automobile, on the public highways, In some instances, it is pointed out, even drivers' licenses, permitting the own-

er to hire out to drive, are given without the slightest pretense of ascertaining the fitness of the applicant for driving.

Many Clauses Are Violated

According to section fourteen, city

According to section fourteen, city

Many Clauses Are Violated

According to section fourteen, city

DEPARTED the clauses are daily violated by the examining officer. Those violated are

"An applicant shall be familiar with the terms of the 'Traffic Ordinance,' the 'Speed Ordinance,' and of this ordinance, and of any amendments there

"He shall have sufficiently good eye sight to be able to avoid danger. No applicant shall be passed as qualified whose vision, with or without correct ing glasses, is less than twenty-fortieths upon being tested with Snellen's Test Types. It shall be unlawful for any person whose vision is corrected by glasses to reach such standard, to drive a motor vehicle without wearing pro-per correcting glasses."

"All applicants must be free from epilepsy, heart disease, and shall not be subject to fainting fits." "He shall not be a person of reck-



MARINE INTELLIGENCE By Merchants' Exchange

Through Honolulu Streets

Nagasaki Sailed, July 20, U. S. A. T. Sherman for Honolulu.

Port Townsend Sailed, July 21, sehr. Kitsan for Honolulu.

San Peiro Sailed, July 21, str. Santa Rita for Honolulu.

Santalite Sailed, July 21, str. Santa Rita for Honolulu.

Seattle Sailed, July 22, U. S. S. St. Louis for Honolulu. secure a license to drive an automobile in Honolulu, are gradually being forgotten, according to frequent and persistent reports which reach The Advertiser daily, from pedestrians who have been in danger, and in some instances injured by automobile drivers who have received licenses and, supposedly, passed the required examination of applicants.

There are many persons who are not fit to drive an automobile and whose driving is a mennee to the public, as drawing for Honolulu.

San Francisco—Arrived, July 22, str. Atlant Agr. Co. Waillum 'Agr. Co.

PORT OF HONOLULU.

Gas schr. J. A. Cummins from Koolau 4 p. m. Makura from Sydney, Auckland and Str. Mauna Kea from Hilo, 6 a. m. Str. Mauna Kea from Hilo, 6 a. m. Str. Mexican from San Francisco,

Maui from Kanai, 9:20 a. m. Likelike from Kanai, 10:35 a. sehr. Mokolii from Koslau 6:55 p. m. Str. Claudine from Maul, 11:05 p. m.

Gas, schr. J. A. Cumuilus for Koolas I a. m. Claudine for Maul, 5:15 p. m. Makura for Victoria and Vancouver

Str. Makura for Victoria and 12.15 p. m.
Gas. schr. Ida May for Maui, 1 a. m.
Str. Mauna Ken for Hilo, 3:10 p. m.
Str. Mexican for Kahului and Hilo, 5:10 m. U. S. Lighthouse tender Columbine for

6 a. m. Claudine for Maul, 5:05 p. m. Maui for Kausi, 5:10 p. m. Likelike for Kausi, 5:55 p. m.

PASSENGERS ABBIVED By str. Makura from Sydney and Auckland, July 21.—R. C. Bubb, Mrs. Bolger and Misses Bolger (2), J. Douglas, Mrs. M. R. Bouglas, Mrs. E. E. Hopkins, Mrs. A. M. Patersoh, Mrs. E. M. Horner, Mr. D. P. Morrison, W. E. Ludlow, J. L. Sternfield, Miss Brown, Mrs. E. G. M. Buckholtz, Mrs. and Miss Parr, Dr. V. Parkin, A. Kemp Stone, J. Worthington, By skr. Matina Rea, July 22.— HillO—H. Decce, R. Cooke, Dr. Hynes, I. M. Lesser and wife, Miss Lesser, Mbs. Oatman, E. C. Dana, J. J. Kelly, Mrs. M. Elsert, D. Elsert, F. Gay, M. Leonard, J. Maher, P. A. Russell, F. Brown, B. Lar.

HONOLULU STOCK EXCHANGE Monday, July 24, 1916.

Mercantile. lexander & Baldwin 305 C. Brewer & Co. 325 Ewa Plantation Co. 3614 36% Haiku Sugar Co.... 265 Haw'n Agr. Co..... 225 210 Haw'n Com'l Sugar 52% 52 Haw'n Sugar Co Henokaa Sugar Co.. 1114 11 Honomu Sugar Co... 200 200 Hutchinson Sugar Co. 30% Kahuku Plant'n Co... 221/2 22 Kekaha Sugar Co... 220 Kolon Sugar Co McBryde Sugar Co .. 43 ¼ 43 ¼ 19 % 19 % 56 ½ 57 27 30 Oahu Sugar Co..... Olan Sugar Co.... Onomea Sugar Co. 57 Pasuhau Sugar Co. . Pac. Sugar Mill Pain Plant'n Co. Pepeekeo Sugar Co. 150 541/4 55 Pioneer Mill Co San Carlos Mill Co. 15%

16 16% 36% 37 Wainlun Agr. Co ... Wailuku Sugar Co .. Haiku F. & P.Co...pfd 19% Haiku F. & P. Co. Haw'n Elect. Co. . . 45% 4514 Hon, Brew. & Malt. 20 1/2 20 1/2 21 Hon. Gas Co..... O. R. & L. Co. Pahang Rubber Co. 24 15 Selma-Dindings Plan Ltd., pd. Selma Dindings Plan. Ltd., pd. (49% pd.)

Tanjong Olok Rub ... Hamakus Ditch Co. 6s 103 Haw. Irr. Co., 6s.... 95 Haw. Ter. Imp. 4s....101 Honokaa Sugar, 6s. . | 96 Hon. Gas Co., 5s.... 104 H. R. T. & L. Co., 6s, 102 Kauai Ry. Co., 6s.... | 101 10039 McBryde Sugar, 5s. | 100 Mutual Tel., 5s. 106 O. R. & L. Co., 6s. .. 106 105 Oshu Sugar Co., 6s. 109 109 Olsa Sugar Co., 6s. 1021/4 1021/4 103 Fac. Guano & Fert. Co 105 Pac. Sugar Mill Co 6s 101 100 San Carlos, 6s. | 100 | 100

Between Boards Olaa, 150, 500, 40, 45, 250, 250, 30, 19.75; MeBryde, 25, 100, 13.00; Wain-lua, 100, 50, 37.00; Ewa, 100, 18, 15, 25, 10, 30, 36.50; Oahu Sugar Co., 5, 5, 43.50; Pioneer, 50, 10, 5, 54. H. G. & S. Co., 100, 25, 52.50.

Session Sales Ewa, 25, 50, 36,50; Oahu Sugar Co. 5, 43,25; Olas, 100, 100, 100, 100, 100, 100, 70, 80, 19.75; San Carlos, 50, 16.00; Ewa, 25, 25, 25, 25, 50, 36.75; Wain lua, 5, 10, 36.87½; Onomea, 50, 80, 57.00; Ewa, 25, 36.75; Waialus, 50, 25, 25, 35, 20, 45, 5, 37.09; Hon. B. & M.

25, 35, 20, 45, 5, 37.00; Hon. B. & M. Co., 25, 25, 25, 20.50; Ewa, 25, 10, 15, SUGAR QUOTATIONS analysis beets (no advices) Parity Cent. (for Rawalian

An intensive advertising company of the condition of the